

### **Remarks**

This amendment is responsive to the official action mailed November 4, 2005.

Applicant has complied with the requirement to affirm the provisional election of claims 1-13 (drawn to the packaging tape as opposed to the nonelected dispenser). Nonelected claims 14-22 have been canceled.

In the official action, pending claims 1-13 were rejected as indefinite (35 U.S.C. §112, 2<sup>d</sup> ¶) or as lacking the support of an enabling disclosure §112, 1<sup>st</sup> ¶), or as obvious over either of two prior art references, US Patents 3,491,877 - Viker and 4,451,533 - Wong. Reconsideration is requested in view of this amendment.

The claims have been amended to particularly point out and distinctly claim the subject matter regarded as the invention. The passages to which the examiner refers as lacking a definite connecting relationship between the recited elements have been corrected. Independent claim 1 as amended recites a definite structural relationship between the slicing means (now structurally defined, namely as an elongated filament), and the web of the tape through which the filament is pulled to separate the tape into lateral strips. The remaining claims further recite aspects such as structures that tend to strengthen the filament, or weaken the tape at the filament, or provide a point at which the filament can be grasped, etc.

The rejection for lack of an enabling disclosure was based upon the similar contention that critical features of the invention were not recited defined in the claims, and without them the disclosure is non-enabling. According to the rejection, the slicing means should be integrally attached to the material of the web, and centered parallel to the longitudinal axis. Applicant has taken the examiner's points under advisement and has redrafted the claims to more clearly define the invention, in a manner supported by an enabling disclosure, without introducing new matter.

Applicant has amended the claims to encompass the elongated filament aspect of the invention, as opposed to a cutter that is not affixed to the tape itself. This change substantially overcomes the grounds of rejection. Insofar as the examiner suggested

that the claims should state that the filament is integral with the tape, or precisely centered on a longitudinal axis between the lateral sides, reconsideration is requested in view of the claims as amended. The amended claims, consistent with the original disclosure, recite that the filament is affixed to the tape web portion and that pulling the filament separates the tape into lateral strips. However, the filament is not defined to include the narrower aspects of being *integral* with the tape web (but see the dependent claims) or *centered* such that the strips are necessarily of equal width.

The specification mentions as illustrative examples as opposed to critical limitations that the filament may be centered and/or the filament may be placed within the body of the tape between the adhesive side and the opposite outer side (which placement arguably could be considered integral with the tape web). There is no basis in the disclosure to conclude that these features are critical or essential to the practice of the invention. Therefore, the filament can also be provided on the adhesive side of the tape as opposed to being integral or embedded, namely being held down under the tape web so that pulling up the filament separates the tape web into lateral strips. The placement of the filament under the tape web on the adhesive side is shown in Fig. 1B, which figure illustrates that the filament can be affixed with the tape web but it is not integral.

The filament also could differ from the embodiment that is denominated at paragraph [0016] as “illustrative” wherein the filament is centered with regard to the longitudinal axis. The clear implication of the description of a centered filament as “illustrative” is that the disclosed embodiment of a centered filament is but one example. The filament could be offset from the center to one side or the other, rendering the width of the strips unequal, and still comport in other respects with the useful, novel and unobvious aspects of the invention as claimed.

According to the disclosure, the filament need not be integral or centered. The filament needs to be in or under the tape web. The filament needs to have a tensile strength that exceeds the strength of the tape web so that the web is sliced apart when

pulling up the filament (see paragraph [0017]). This aspect has been added to the claims as amended. No new matter is presented.

Applicant has amended paragraphs [0016]-[0019] of the Specification to clarify the grammar and substantially to limit the discussion to the disclosed filament as opposed to a broadly described “means” that according to the official action ostensibly could be construed as referring to cutting blades, rollers or the like that are not actually parts of the tape itself. The clarity of the Specification is improved. The Specification as filed included substantial disclosure directed to the elongated cord, wire, string or other sort of filament, including its position and the relative tensile strength of the filament exceeding that of the tape web. Therefore, no new matter is inserted by making these clarifying changes.

By amending the claims to recite a filament affixed to the tape web under or within its surfaces, rather than generic centered means such as might be associated with a dispenser, applicant has rendered the claims definite. The disclosure is clear and provides enabling support for the invention as now claimed. Reconsideration and withdrawal of the rejections under 35 U.S.C. §112 are requested.

The elected claims were rejected as obvious over two prior art references cited in the alternative. Neither of the references discloses or suggests a packing tape with a filament that can be pulled along a longitudinal line to tear the tape leaving lateral strips. Thus, the prior art references fail to meet the invention claimed as a whole.

The Viker reference teaches that it is known to employ a rotary cutter to slit a wide web into narrow webs when winding tape onto rolls. Viker teaches that a sandblasted cutter produces a rough lateral edge, making it easier to rip a short length of tape from the roll along a lateral line than with a smooth cut edge. However, there is no suggestion of a filament to separate portions of a tape web by pulling the filament through the tape web.

The Wong reference teaches a laterally positioned cutting blade with teeth. The disclosed blade is not affixed to the tape web, instead forming a cutter against which the tape web is pressed to rip the tape web on a lateral line at the blade. Wong's cutter is

similar to the toothed cutter edge of conventional desktop tape dispensers. There is no suggestion or possibility of pulling a filament through the tape.

Applicant's claim 1 as amended defines *an elongated filament affixed to the tape web portion along a longitudinal line between the lateral edges of the web portion*. This filament is defined as having *a tensile strength greater than a tearing strength of the tape web*. In this way, the filament can be pulled through the tape when separating the tape web into strips adhered on opposite sides of a line to be sealed. Neither of the cited references nor any of the other references of record disclose or suggest these aspects of the invention.

Therefore, even if the person of ordinary skill sought to select, modify and apply the cited references, there is no basis apart from applicant's disclosure to lead that person toward applicant's invention claimed as a whole. There is no basis to conclude that the claimed invention would have been obvious.

The only cited reference that appears to be pertinent with respect to the inclusion of fibers or filaments or the like is US Patent 3,853,598 – Raguse. This reference is an example of a disclosure of woven fabric tape (see Figs. 3, 4) of the type conventionally promoted for use to attach gauze bandages, and for similar medical and sports taping applications. Such woven fabric tape is sometimes simply termed "adhesive tape" (which in fact is the title used in Raguse '598).

A consideration of the nature of such adhesive tape demonstrates that the Raguse type of product also does not teach or suggest the claimed invention and would lead the person of ordinary skill away from applicant's invention as claimed. The Raguse type of tape has warp and weft fibers, respectively aligned longitudinally and laterally. The nature of the longitudinal and lateral fibers is substantially the same, but their mutually perpendicular alignment makes the tape fabric easy to rip along precise longitudinal or lateral lines of the fabric. A fabric is easy to rip along a line between adjacent warp or weft fibers because the minimum number of fibers are broken if one exclusive rips through only one of the warp and the weft, compared to a diagonal rip that would need to rip through both. In any event, the ripping amounts to exceeding the

tensile strength of fibers oriented perpendicular to the tape line, by manually separating the tape web. There is no disclosure or even remote suggestion of pulling a filament through a tape adhered to a package or other item on opposite sides of a line to be sealed. Raguse fails to meet or suggest the invention claimed as a whole, and in fact teaches away. Raguse lacks any objective teachings leading to a filament that should or could be grasped manually and pulled through the tape web.

The claims have been amended for definiteness. The Specification is made clear without introduction of new matter. The differences between the invention and the prior art are such that the subject matter claimed, as a whole, is not shown to have been known or obvious. The application is in condition for allowance. Reconsideration and allowance are hereby requested.

Respectfully submitted,

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